

Raj Kapoor Saini

Vs

State of Haryana and others

Writ Petn. (Civil) No. 831 of 1991 with Interlocutory Appln. Nos. 1 and 2 of 1991 in Writ Petn. (Civil) No. 292 of 1986

(L. M. Sharma, J. S. Verma, Dr. A. S. Anand JJ)

13.02.1992

ORDER

1. I. A. Nos. 1 & 2 of 1991 Interlocutory Applications Nos. 1 and 2 are dismissed. Writ Petition (Civil) No.,831 of 1991 We have heard Mr. P. P. Rao, learned counsel for the petitioner at considerable length. In our view there is no scope for any relief to be granted on this writ petition.

2. This application under Article 32 of the Constitution has been filed by the petitioner for quashing the gradation list corrected as on 1-4-1991. of the Judicial officers of Haryana, claiming that the 6 subordinate Judges, mentioned in paragraph 20 of the writ petition, who were actually appointed later than the petitioner must be shown junior to him. It is claimed by the petitioner that since he was appointed against one of the 34 posts of the judicial officers of the 1980-81 batch he must be entitled to get his seniority reckoned by reference to the earlier year, and the aforementioned 6 respondents who were given the benefit of their seniority with reference to 1984 must be held to his junior.

3. In a judgment of the Constitution Bench of this Court dated February 27, 1985 in Civil Appeal No. 1688 of 1981, it was directed that the appellant should be appointed with effect from March 15, 1985 and that "the appellant will rank for seniority on the basis that he is appointed on March 15, 1985. The other benefits of service will be due to him on that basis alone." Accordingly, the petitioner was appointed by a long order issued by the State Government dated 8th March, 1985 (Annexure H) observing that :-

"In compliance with the orders of Hon'ble Supreme Court dated February 27, 1985, the Governor of Haryana, keeping in view the urgency of the matter, is pleased to fill in one vacancy of the 15 vacancies meant for general category candidates advertised by the Haryana Public Service Commission in August, 1984 and to appoint Shri Raj Kapoor Saini as Subordinate Judge in the State of Haryana, on probation, with effect from March 15, 1985, against the said vacancy."

The petitioner accepted the appointment on the terms mentioned above without any protest. He cannot, therefore, claim the benefits which he would have been entitled to, if he had been appointed earlier.

4. Mr. Rao has contended that in any event the petitioner is entitled to be declared senior to the six persons, fully described in this petition as they were in fact appointed later than the petitioner's appointment in 1985. There is no force in this argument either. So far the aforesaid 6 respondents

are concerned, although appointed later, they had been selected in the recruitment process of the 1984 batch, as is clear from the judgment of this Court in Writ Petition (C) No. 292 of 1986 dated September 17, 1986 (reported in AIR 1987 SC 169) (Miss Neelima Shangla v. State of Haryana) and on that basis the High Court has held Miss Neelima Shangla to "be entitled to her due place in the Seniority List of the 1984 batch". So far the petitioner is concerned he is not right in his assertion that he was appointed against one of the 34 vacancies. All the 34 posts were duly filled up by other candidates and subsequently when one of them fell vacant, it was filled up by another person and not by the petitioner. In pursuance of the judgment in Civil Appeal No. 1688 of 1981, the State Government appointed the petitioner by Annexure H, referred to in paragraph 3 above and he was posted against one of the 15 vacancies advertised in August, 1984.

5. In the result it has to be held that there is no merit in the writ petition and it is accordingly dismissed. Petition dismissed.

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